

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. After amending the claims as set forth above, claims 1 and 11-27 are now pending in this application.

Notice of non-responsive amendment

On May 28, 2009, a communication was issued by the PTO alleging that the Amendment Accompanying RCE was non-responsive because the pending claims do not read on the elected species. Specifically, it is alleged that newly submitted claims 12-19 are directed to an invention that is independent or distinct from the invention originally claimed because these claims are drawn to a holder and heat exchanger in combination when only the subcombination of a holder was initially claimed. Also, it is alleged that claims 1, 3-9, and 19 have been amended to positively recite the elements of the pipe/rib block of the heat exchanger making these claims drawn to a holder and heat exchanger in combination when only the subcombination of a holder was initially claimed. Consideration of the claims 1 and 12-19 is respectfully requested.

Claim 1 is drawn to a holder comprising a clip connection of two plastic lockable clamping elements which can be latched to one another, and which hold the pipe/rib block between the two clamping elements; wherein each clamping element comprises a pressing face which can be pressed against one of the end faces of the pipe/rib block, wherein one of the two clamping elements comprises latching arms which engage over the side faces, and the other of the two clamping elements comprises holding pockets which receive the latching arms, wherein each pressing face comprises a horizontal series of protruding, pointed holding elements which can be pressed into the end faces, and wherein each pressing face further comprises two protruding limbs spaced apart from each other with a vertical series of protruding, pointed holding elements. This claim merely adds additional features to the invention of claim 1 drawn to a holder in which the additional features describe one or more elements of the holder in functional terms, and these functions relate to its interaction with the pipe/rib block.

For example, the additional feature “wherein each clamping element comprises a pressing face which can be pressed against one of the end faces of the pipe/rib block” merely

recites the pressing face of the clamping element in functional terms (pressing against one of the end faces of the pipe/rib block) and its function relates to its interaction with the pipe/rib block. This feature does not include the “one of the end faces of the pipe/rib block” as part of the claimed invention of claim 1. Similarly, the additional feature “wherein one of the two clamping elements comprises latching arms which engage over the side faces, and the other of the two clamping elements comprises holding pockets which receive the latching arms” merely describes the latching arms in functional terms (engaging over the side faces) and its function is in relation to the side faces of the pipe/rib block). This feature does not include the side faces of the pipe/rib block as part of the claimed invention of claim 1. Furthermore, the additional feature “wherein each pressing face comprises a horizontal series of protruding, pointed holding elements which can be pressed into the end faces” similarly refers to the pointed holding elements in functional terms (pressed into the end faces) and their function relates to the end faces of the pipe/rib block, and does not include the end faces of the pipe/block as part of the claimed invention of claim 1.

It is noted that describing an element of the holder in functional terms when the function relates to the pipe/rib block has been used in the claims as originally presented,¹ and no objection was made. A similar approach is now being used in relation to the amendments to claim 1, and asserting that these claim amendments now include the pipe/rib block when similar language used in original claim 1 did not is inconsistent and inaccurate.

The additional feature “wherein each pressing face further comprises two protruding limbs spaced apart from each other with a vertical series of protruding, pointed holding elements” does not directly refer to the heat exchanger.

The amendments, therefore, to claim 1 only relate to features of the holder of claim 1, and do not include the pipe/rib block as part of the invention of claim 1. Indeed, the preamble of claim 1 starts with the wording “A holder,” and not “A combination of a holder and heat

¹ For example, the underlined portion of original claim 1 given below describes the clamping elements of the holder in terms of its function when its function was related to the pipe/rib block:

1. (Original) A holder for attaching additional parts to a pipe/rib block (19) of a heat exchanger and/or for supporting the heat exchanger, wherein the pipe/rib block (19) has end faces (19a, 19b) which are arranged parallel to one another and side faces or side parts (21), characterized in that the holder is embodied as a clip connection of two clamping elements (1, 10) which can be latched to one another, hold the pipe/rib block (19) between them and are made, in particular, of plastic.

exchanger.” The fact that new features have been added to claim 1 does not make the invention drawn to a different invention but merely more particularly describes the features of the claimed invention. Accordingly, consideration of claim 1 is respectfully requested.

Claims 12-19 are drawn to a heat exchanger comprising a pipe/rib block and holder. These claims should be considered because this heat exchanger is not drawn to a distinct and independent invention. According to MPEP 802.01, a restriction is proper when “[t]here would be a serious burden on the examiner if restriction is not required.” In this case, all the features of claim 1 are present in claim 12. If all the features of claim 12 are considered, then all the features of claim 1 are necessarily considered, and there is no additional burden. Because there is no additional burden when considering claims 1 and 12, consideration of claim 12 (and its dependent claims) is respectfully requested.

Rejection of claims 1-7 based on Ismert.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent 6,126,122 (“Ismert”). For at least the following reasons, this rejection is traversed.

Claim 1 (as amended) recites, among other things, a holder comprising a clip connection of two plastic lockable clamping elements which can be latched to one another, and which hold the pipe/rib block between the two clamping elements. Each clamping element comprises a pressing face which can be pressed against one of the end faces of the pipe/rib block. One of the two clamping elements comprises latching arms which engage over the side faces, and the other of the two clamping elements comprises holding pockets which receive the latching arms. Each pressing face comprises a horizontal series of protruding, pointed holding elements which can be pressed into the end faces. Each pressing face further comprises two protruding limbs spaced apart from each other with a vertical series of protruding, pointed holding elements. Ismert does not teach or suggest this combination of features.

For instance, Ismert does not teach or suggest that each pressing face further comprises two protruding limbs spaced apart from each other with a vertical series of protruding, pointed holding elements. Neither the base member 5 nor the block 25 of Ismert (which the PTO considered to be the clamping elements of claim 1) has two protruding limbs

with a vertical series of protruding, pointed holding elements. Because Ismert does not teach this feature, claim 1 is allowable over Ismert.

Claim 2-7 has been canceled, which renders the rejection of this claim moot.

For at least these reasons, favorable reconsideration of the rejection is respectfully requested.

Rejection of claims 1 and 8-10 based on Wright

Claims 1 and 8-10 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent 5,601,262 (“Wright”).² For at least the following reasons, this rejection is traversed.

Claim 1 (as amended) recites, among other things, a holder comprising a clip connection of two plastic lockable clamping elements which can be latched to one another, and which hold the pipe/rib block between the two clamping elements. Each clamping element comprises a pressing face which can be pressed against one of the end faces of the pipe/rib block. One of the two clamping elements comprises latching arms which engage over the side faces, and the other of the two clamping elements comprises holding pockets which receive the latching arms. Each pressing face comprises a horizontal series of protruding, pointed holding elements which can be pressed into the end faces. Each pressing face further comprises two protruding limbs spaced apart from each other with a vertical series of protruding, pointed holding elements. Wright does not teach or suggest this combination of features.

For instance, Wright does not teach or suggest that each pressing face further comprises two protruding limbs spaced apart from each other with a vertical series of protruding, pointed holding elements. Neither the base 102 nor the cover 104 of Wright (which the PTO considered to be the clamping elements of claim 1) has two protruding limbs with a vertical series of protruding, pointed holding elements. Because Wright does not teach this feature, claim 1 is allowable over Wright.

Claim 8-10 has been canceled, which renders the rejection of this claim moot.

² Although claim 10 is not explicitly rejected, it appears that claim 10 was meant to be rejected over Wright because claim 10 refers to the clamping elements being plastic and the rejection based on Wright refers to a specific material being a matter of design preference.

For at least these reasons, favorable reconsideration of the rejection is respectfully requested.

Consideration and allowability of claims 12-27

Claims 12-19 have been added and are drawn to a heat exchanger comprising a holder.³ These claims are not independent or distinct from claim 1 drawn to the holder because the particulars of the holder of independent claim 1 are also required by the holder recited in the heat exchanger of independent claim 12. Consideration of claims 12-18 is respectfully requested.

Claim 12 recites, among other things, a holder for attaching additional parts to the pipe/rib block and/or for supporting the heat exchanger. The holder comprises a clip connection of two plastic lockable clamping elements which can be latched to one another, and which hold the pipe/rib block between the two clamping elements. Each clamping element comprises a pressing face which presses against one of the end faces of the pipe/rib block. One of the two clamping elements comprises latching arms which engage over the side faces, and the other of the two clamping elements comprises holding pockets which receive the latching arms. Each pressing face comprises a horizontal series of protruding, pointed holding elements which presses into the end faces. Each pressing face further comprises two protruding limbs spaced apart from each other with a vertical series of protruding, pointed holding elements.

As previously mentioned, neither Ismert nor Wright teach or suggests that each pressing face further comprises two protruding limbs spaced apart from each other with a vertical series of protruding, pointed holding elements. Accordingly, claim 12 is allowable over Ismert and Wright.

Claims 13-19 depend from and contain all the features of claim 12, and are allowable for the same reasons as claim 12, without regard to the further patentable features contained therein.

Claims 20-27 have been added and are drawn to a holder and read on the elected invention. For example, claim 20 only recites features of the holder. Although reference may

³ It is noted that claim 11 drawn to a holder and heat exchanger combination has been withdrawn as being independent or distinct from the originally claimed holder.

be made to the pipe/rib block in claim 20, these references are related to what certain elements of the holder are “configured” to do, and are thus merely recitations in functional terms. The elements of the pipe/rib block are not part of the claimed invention of claim 20. Consideration of claims 20-27 is respectfully requested.

Claim 20 recites, among other things, a clip connection of two plastic lockable clamping elements which can be latched to one another, and which are configured to hold the pipe/rib block between the two clamping elements. Each clamping element comprises a pressing face which is configured to press against one of the end faces of the pipe/rib block. One of the two clamping elements comprises latching arms which are configured to engage over the side faces, and the other of the two clamping elements comprises holding pockets which receive the latching arms. Each pressing face comprises a horizontal series of protruding, pointed holding elements which are configured to press into the end faces. Each pressing face further comprises two protruding limbs spaced apart from each other with a vertical series of protruding, pointed holding elements.

As previously mentioned, neither Ismert nor Wright teach or suggests that each pressing face further comprises two protruding limbs spaced apart from each other with a vertical series of protruding, pointed holding elements. Accordingly, claim 20 is allowable over Ismert and Wright.

Claims 21-27 depend from and contain all the features of claim 20, and are allowable for the same reasons as claim 20, without regard to the further patentable features contained therein.

For at least these reasons, allowance of claims 12-27 is respectfully requested.

Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

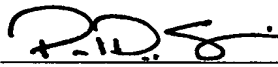
The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a

check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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